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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,860	07/16/2003	Andrew R. Weisenberger	W-333	1759
802	7590	02/10/2005	EXAMINER	
DELLETT AND WALTERS P. O. BOX 2786 PORTLAND, OR 97208-2786			FRANK, RODNEY T	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/621,860		WEISENBERGER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Rodney T. Frank		2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by the data and brochure sheets for the Quest Technologies Indoor Air Quality Monitors models aq-5000 and aq-5001. A brief summary of the devices can be found at the following web site addresses:

<http://www.quest-technologies.com/IAQ/aq5000.htm>

and

<http://www.quest-technologies.com/IAQ/aq5001.htm>

A summary of the aq5000 device states:

The AQ5000Pro handheld IAQ monitor is designed for building walk through surveys. It's portable design allows you to quickly respond to your customers indoor air quality complaints.

To provide an accurate indoor air quality picture, the aq5000Pro IAQ monitor records carbon dioxide, relative humidity, temperature, and dew point. Available options include support for additional gases and air velocity. A linear analog input channel interfaces with external devices including VOC monitors, respirable dust monitors, light meters, formaldehyde monitors and more.

After you complete your survey and have captured your IAQ monitor data, you can print a hardcopy for review or you can download the data into QuestSuite Professional. QuestSuite Professional software is simple to use and allows you to analyze, chart, report and archive your data.

With this in mind, I will now refer to the claims.

In regard to claims 1, 11, and 19 this document describes a method and system for certifying at least a portion of an interior of a structure relative to moisture content, comprising the steps of: measuring moisture content levels within said portion of the interior of the structure; and providing a certificate of moisture content level measurements. Page 7 of the PDF brochure gives

a detailed example of a typical inspection report and time summary data, which though not a certificate, would serve the same purpose and would actually give more detailed information than the claimed certificate.

Upon reading the specification in order to gain a better insight as to what the “certificate” being issued meant, it was determined by the examiner that the certificate is a document or report that is given upon the completion of a moisture test to determine whether a particular structure passed or failed the test based upon given parameters. In the Quest Technologies reference, a moisture test is performed. Since the applicant does not claim any test in particular, the examiner feels that this meets the first part of the claim for measuring moisture. Then, since the certificate is a document that gives information regarding the results for the moisture test, the report described and shown on page 7 of the PDF brochure document though not exactly a certificate, would be deemed as an obvious equivalent to one of ordinary skill in the art. The examiner would also like to mention that though the certificate may be a simpler reporting means than a detailed report as the one described in the Quest Technologies reference, utilizing the certificate in lieu of the report does not provide any benefit nor produce any unexpected result over the prior art.

In reference to claims 2-4 and 12, the device is described on page 5 of the PDF brochure as being used as a “snap shot survey tool” and a disclosed advantage of the device is its ease of use. Therefore, the reference would indicate that one of ordinary skill in the art would be able to easily assess the area under test and make a determination whether or not the area or areas under test are compliant or non-compliant with established moisture testing regulations.

In reference to claims 5-9, 14-18, and 20-24, though the specific structure under test is not specifically disclosed, the reference discloses on page 5 of the PDF Brochure that it can be used

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during the course of a building walkthrough, which all the various structures disclosed in the claims, would fall under the description of a "building".

In reference to claims 10, 13, 25, and 29-31, though the specific percentage value that is considered to be desired is not specifically disclosed, this parameter is a design choice that would be obvious to one of ordinary skill in the art. For example, an article from the Department of Wood and Paper Science; Housing and Clothing at the University of Minnesota entitled "Testing Housing Materials for Moisture" it states that if moisture content is measured to be less than 10%, then there is no need to worry, while a reading above 20% could indicate a serious moisture problem (this can also be found on line at the following internet address: <http://www.extension.umn.edu/info-u/household/BK270.html>). Therefore, these percentage parameters are viewed as a design choice well within the preview of one of ordinary skill in the art.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner has cited various references deemed to be relevant to the general state of the art of the present invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9am -5:30p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RTF  
January 28, 2005

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800